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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JL BEVERAGE COMPANY, LLC,
a Nevada limited liability company,

Plaintiff,

v.

BEAM INC., a Delaware corporation, and JIM
BEAM BRANDS CO., a Delaware corporation;
and DOES 1 through 10

Defendants.

Case No. 2:11-cv-00417-MMD-CWH

**DEFENDANTS' MOTION TO FILE
UNDER SEAL PORTIONS OF
DEFENDANTS' RENEWED MOTION
FOR SUMMARY JUDGMENT AS TO
THE UNAVAILABILITY OF DAMAGES**

JIM BEAM BRANDS CO., a Delaware
corporation;

Counterclaim-Plaintiff,

v.

JL BEVERAGE COMPANY, LLC,
a Nevada limited liability company,

Counterclaim-Defendant.

1 Pursuant to District of Nevada Local Rule 10-5(b), Defendants Beam Inc.
2 and Jim Beam Brands Co. (collectively, “Defendants”) hereby request that the
3 below-listed portions of their filing entitled “Defendants’ Renewed Motion for
4 Summary Judgment as to the Unavailability of Damages” as well as the below-
5 listed portions of the supporting declarations and exhibits, which are being filed
6 electronically under seal concurrently with this motion, be sealed by this Honorable
7 Court pursuant to the protective order in place between the parties. Defendants are
8 contemporaneously filing, or have contemporaneously filed, redacted versions of
9 each document requested to remain under seal so that there can be versions of the
10 documents available for viewing by the general public.

11 Defendants respectfully request that portions of the said documents be sealed
12 because Defendants’ Renewed Motion for Summary Judgment and its supporting
13 documentation contains information and documents that either Defendants and/or
14 Plaintiff have designated as “CONFIDENTIAL – OUTSIDE ATTORNEY’S EYES
15 ONLY,” as contemplated by the Stipulated Protective Order entered by the Court
16 December 6, 2011. Under the Stipulated Protective Order, the party making the
17 designation claims that the designated documents and information constitutes or
18 contains proprietary or confidential trade secret, technical, business, financial, or
19 other sensitive information about affiliates, parents, subsidiaries and third parties
20 with whom the parties to this litigation have or have had business relationships, or
21 other confidential or technical research, development, business, or financial
22 information that, if disclosed to a business competitor, may tend to damage the
23 designating party’s competitive position. As a signatory to the Stipulated
24 Protective Order, Defendants are bound at this stage to respect Plaintiff’s
25 designation of confidentiality, especially given these motions. (*See* Stipulated
26 Protective Order Regarding Confidentiality, Dkt. #31, at 2-3.)

27 With respect to Defendants’ claimed proprietary materials, the information
28 Defendants seek to seal by way of this motion is information related to Defendants’

1 sales of its PUCKER liqueur and PUCKER vodka products, the amounts spent on
2 advertising for the same, as well as exhibits that disclose Defendants' internal
3 marketing decisions and trade secret competitive business strategies. The
4 disclosure of these materials could result in the infringement of Defendants' trade
5 secrets, interfere with Defendants' business opportunities, and otherwise result in
6 irreparable injury to Defendants. Accordingly, Defendants submit that "compelling
7 reasons" exist to maintain the following information and documents under seal.
8 *See, e.g., Golden Boy Promotions, Inc. v. Top Rank, Inc.*, No. 2:10-cv-01619, 2011
9 U.S. Dist. LEXIS 23450, at *3 (D. Nev. Feb. 17, 2011) (granting motion to seal
10 "Term Sheet" containing the details of a confidential business agreement finding it
11 "[a] source of business information that might harm [the] litigants' competitive
12 standing.").

13 Pursuant to the Stipulated Protective Order Regarding Confidentiality,
14 Defendants specifically request that the following documents, and all references
15 made in Defendants' Renewed Motion for Summary Judgment (a public version
16 with redactions of such references available at Dkt. #169) or in its supporting
17 declarations that disclose such, be sealed:

- 18 • From the Supplemental Declaration of Claudia Stangle, Dkt. #169-1:
 - 19 ○ Exhibit B. This exhibit contains excerpts from the Deposition of JL
20 Beverage Pursuant to Rule 30(b)(6), and exhibits thereto, which took
21 place in Las Vegas, Nevada on March 27, 2012. This entire deposition
22 has been designated as Confidential – Outside Attorney's Eyes Only
23 by Plaintiff.
 - 24 ○ Exhibit C. This exhibit contains excerpts from the deposition of Maria
25 Martin designated as Confidential – Outside Attorney's Eyes Only by
26 Jim Beam, and contains confidential information related to Jim
27 Beam's sales of PUCKER vodka products, including its license
28 agreements, legal clearance opinions, confidential business plans.

- Exhibit D. This exhibit contains excerpts from the deposition of Kim Washington designated as Confidential – Outside Attorney’s Eyes Only by Jim Beam, and contains confidential information related to Jim Beam’s confidential market research, advertising and business plans.
- Exhibit D1. This exhibit was designated CONFIDENTIAL – ATTORNEY EYES ONLY by Jim Beam and contains a confidential market research presentation.

In light of the foregoing, Defendants pray that this Honorable Court grant the foregoing request and order that the above listed documents and information, along with references to such exhibits and information in Defendants’ Motion for Summary Judgment and supporting documentation therefor, be sealed and/or remain under seal during the pendency of this action.

Respectfully submitted,

Dated: November 4, 2016

By: /s/ Edward T. Colbert

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IT IS SO ORDERED.

DATED: December 2, 2016

C.W. HOFFMAN, JR.
UNITED STATES MAGISTRATE JUDGE

*for Defendants
Counter-Plaintiff*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the **DEFENDANTS' MOTION TO FILE UNDER SEAL PORTIONS OF DEFENDANTS' RENEWED MOTION FOR SUMMARY JUDGMENT AS TO THE UNAVAILABILITY OF DAMAGES** was served electronically upon the following parties by the CM/ECF system on this 4th day of November, 2016:

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The undersigned further certifies that copies of all documents filed under seal referenced herein were served by first class mail on the attorneys listed above.

Dated: November 4, 2016

By: /s/ Edward T. Colbert
A partner at Andrews Kurth Kenyon LLP